IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.No. 26104 of 2005

Dated : 2.12.2005

Between:

M/s Tungabhadra Holdings Pvt. Ltd.,

Isnapur village, Patancheru Mandal,

Medak district, rep. by its

General Manager (Commercial)

.. Petitioner

And

The District Registrar & Collector,

Medak District at Sanga Reddy & another.

.. Respondents

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ORDER:

Questioning the proceedings No.B.G1/1430/2005 dated 12.9.2005 issued by the first respondent under Section 47-A of the Indian Stamp Act, 1899, the present writ petition is filed by the petitioner.

As per the impugned notice dated 12.9.2005, the petitioner presented a document for registration by paying the deficit stamp duty of Rs.58,45,410/- and also Rs.3,24,745/- towards charges, totaling to Rs.61,70,155/-, which was not registered and given pending registration No.P-95/2005 on the ground that the petitioner had not correctly shown the market value of the property.

It is stated that as per the directions of this Court in C.A.No. 1285 of 2004 dated 13.7.2004, the Official Liquidator has conducted auction of the entire assets of M/s Nagarjuna Coated Tubes Ltd., (in liquidation) i.e. land and building, plant and machinery and current assets (on as is where is and whatever there is basis) on 11.8.2004 situated at Isnapur village, Patancheru Mandal, Medak district. The petitioner being the highest bidder for Rs. 5.8 crores, the sale was confirmed in its favour by order in C.A. No. 1285 of 2004 in R.C.C.No. 9 of 1991. Thereafter, the Official Liquidator delivered the possession of the property to the petitioner and his nominee on 14.10.2004. Thereafter, this Court in C.A.No. 373 of 2005 directed the Official Liquidator to execute necessary conveyance deed and accordingly, the Official Liquidator executed sale deed in favour of the petitioner on 1.9.2005 in respect of land admeasuring Ac.30-08 guntas and civil works belonging to M/s Nagarjuna Coated Tubes Ltd., but the sale deed was not registered and the same

was kept pending as
pending registration No. P-95/2005. Thereafter, the Official Liquidator also executed a rectification deed dated 23.11.2005 in favour of petitioner, who by oversight had shown the value of other assets. It is further stated that the petitioner has already paid the deficit stamp duty of Rs.8,98,900/-, a sum of Rs.50,000/- towards registration charges and also paid a sum of Rs.150/- towards user charges on 19.11.2005, but still the document has not been registered.

It is the contention of the learned counsel for petitioner that the action of the respondents in not releasing the said document is illegal and arbitrary. It is further stated that as per the Division Bench judgment of this Court in W.A. NO. 355 of 1998 dated 11.3.1998 confirming the judgment of the learned single judge in W.P. No. 13527 of 1997 dated 10.11.1997 wherein the learned single Judge observed that the District Collector cannot go into the issue to determine the market value of the property being sold by the State Financial Corporation by way of public auction. In the instant case also, the petitioner became the highest bidder in the open auction conducted pursuant to the directions of this Court, and therefore, the auction amount should be the basis for collection of stamp duty and registration charges.

It is further stated that there was some ambiguity with regard to collection of stamp duty in respect of plant and machinery and in this regard, the Government issued orders in G.O. Ms. No. 2046 Revenue (Registration. I) Department dated 28.11.2005. As per the notification issued in the said G.O., the Government of A.P. reduced the stamp duty payable in respect of sale deeds of plant and machinery (movable or immovable i.e. whether fastened to earth or severed) to 2% on the auction amount fetched due to sale of industrial units by the Official Liquidator appointed by the High Court/Recovery Officer appointed by the Debt Recovery Tribunal and the units disposed of by Implementation Secretariat of the Public Enterprises Department.

The petitioner questions only the show cause notice issued under 47-A of the Indian Stamp Act, 1899. The said show cause notice does not disclose any material particulars as to whether the first respondent has followed the aforesaid judgment of this Court or the orders of the Government.

Having regard to the facts and circumstances of the case, the petitioner is permitted to submit an explanation to the said impugned show cause notice dated

12.9.2005 within a period of one week from today and on such explanation/representation, the respondents may consider and pass appropriate orders in accordance with law, within a period of 10 days thereafter.

With the above observations and directions, the writ petition is accordingly disposed of. No costs.

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V.ESWARAIAH, J

Date: 15.12.2005

Note: C.C. in (2) days.

B/o

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15.12.2005